



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 4, 1998

Ms. Susan K. Steeg
General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR98-2608

Dear Ms. Steeg:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119193.

The Texas Department of Health (the "department") received a request for the epidemiological investigation compiled by the department regarding illnesses associated with *Vibrio parahaemolyticus* from oysters. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with sections 161.0213 and 81.046 of the Health and Safety Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Chapter 81 of the Health and Safety Code, of which section 81.046 is a part, is commonly referred to as the Communicable Disease Prevention and Control Act. Under section 81.042, various individuals, including health professionals, school and child care administrators, and owners and managers of food handling or processing establishments, are required to make reports to the department of instances of suspected cases of "reportable diseases," including communicable diseases, and "health conditions." Section 81.046 of the Health and Safety Code provides in pertinent part:

(a) Reports, records, and information furnished to a health authority or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Open Records Act] and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created by the department during an investigation under chapter 81 is confidential and may not be released unless an exception set out in the statute applies. It does not appear that any of the statute's exceptions apply to the requestor. *See* Health & Safety Code § 81.046(c), (d). We agree that section 81.046(b) governs the release of this information. Therefore, the department must withhold the submitted documents in their entirety.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous *determination regarding any other records*. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 119193

Enclosures: Submitted documents

cc: Mr. Guy Jackson, III
Coastal Oyster Leaseholder Association
P.O. Drawer CC
Anahuac, Texas 77514-1729
(w/o enclosures)

¹Because we resolve your request under section 81.046, we need not address the applicability of section 161.0213 of the Health and Safety Code.